

REMARKS

Claims 1-5 and 7-11 are pending in this application. By this Amendment, claims 1, 5, 7 and 8 are amended and claim 6 is canceled without prejudice or disclaimer to the subject matter therein. Claims 9-11 are added. Claim 1 is amended to incorporate the subject matter of claim 6 as originally filed. Support for new claim 9 may be found at least on page 9, lines 23-25, and in Fig. 6; support for new claim 10 may be found at least on page 12, lines 1-22, and in Fig. 8; and support for new claim 11 may be found at least on page 12, lines 1-22, and in Fig. 8. No new matter is added by the above amendment. In view of at least the following, reconsideration and allowance are respectfully requested.

I. Claim Rejection under 35 U.S.C. § 102

The Office Action rejects claim 1 under 35 U.S.C. § 102(b) over U.S. Patent No. 6,522,964 (Miki). This rejection is respectfully traversed.

It is well settled that a claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP § 2131. Despite the Office Action's assertions, Miki does not teach each and every feature presently recited in claim 1.

Independent claim 1 recites, in part, "a single traveling actuator driven with pressure oil discharged from the hydraulic pump... and a flow rate control device that increases a maximum flow rate of the hydraulic pump when the drive command for the traveling actuator is detected with the detection device, wherein: the flow rate control device comprises a displacement angle control device that adjusts a maximum displacement angle of the hydraulic pump, and increases the maximum displacement angle when the drive command for the traveling actuator is detected with the detection device."

The Office Action asserts that the accelerator actuator 8 disclosed in Miki corresponds to the single traveling actuator presently recited in claim 1. See page 2 of the Office Action.

However, Miki merely discloses that "the engine speed of a pump driving diesel engine 7 which are adjusted by moving the accelerator position by an accelerator actuator and pump regulators 9 an 10 are controlled by a controller 12 serving as a control section to adjust the discharge flow rate of the hydraulic pumps 5 and 6." See Miki, column 7, lines 39-43. In other words, Miki discloses an accelerator actuator 8 that is used to adjust the diesel engine 7 but is not driven with pressure discharge from the hydraulic pump. Consequently, the accelerator actuator 8 of Miki does not correspond to a "single traveling actuator driven with pressure oil discharged from the hydraulic pump," as recited in current claim 1.

Moreover, Miki discloses raising the pump output power if the accelerator dial position is the maximum and the engine speed is higher than a rated value. See Miki, column 8, lines 10-17. Miki also discloses increasing the flow rates from the hydraulic pumps 5 and 6. See Miki, column 8, lines 10-17. However, such a disclosure - the accelerator dial position being the maximum and the engine speed being higher than a rated value - does not mean that the drive command for the traveling actuator is detected because Miki does not disclose a traveling actuator driven with pressure oil.

Finally, Miki fails to disclose or render obvious the adjustment of a maximum displacement angle of the hydraulic pump. Such a feature is presently recited in claim 1. For example, as provided above, claim 1 recites, in part, "the flow rate control device comprises a displacement angle control device that adjusts a maximum displacement angle of the hydraulic pump, and increases the maximum displacement angle when the drive command for the traveling actuator is detected with the detection device" (emphasis added).

In view of the foregoing, Miki fails to disclose or render obvious the above-quoted features recited in claim 1. Thus, Miki fails to discloses each and every element recited in claim 1.

Claims 2-5 and 7-11 variously depend from claim 1. Because Miki fails to teach, disclose or suggest the features recited in independent claim 1, dependent claims 2-5 and 7-11 are patentable for at least the reasons that claim 1 is patentable, as well as for the additional features they recite.

Accordingly, withdrawal of the rejection is respectfully requested.

II. Claim Rejections under 35 U.S.C. § 103

The Office Action rejects claim 2 under 35 U.S.C. § 103(a) over Miki in view of U.S. Patent No. 4,316,697 (Yokoyama); rejects claims 3-8 under 35 U.S.C. § 103(a) over Miki in view of U.S. Patent No. 6,169,948 (Fujishima). These rejections are respectfully traversed.

By this Amendment, claim 6 is cancelled. Thus, the rejection as to claims 6 is moot.

Miki, Yokoyama, and Fujishima, in any combination, do not disclose or render obvious the features recited in claim 1. For example, none of the applied references suggest render obvious: (i) a single traveling actuator driven with pressure oil discharged from the hydraulic pump; (ii) a detection device that detects a drive command for the traveling actuator; and (iii) an adjustment of a maximum displacement angle of the hydraulic pump. Thus, Yokoyama and Fujishima do not supply the subject matter missing in Miki. Therefore, Miki, Yokoyama, and Fujishima, either individually or in combination, do not disclose or render obvious the subject matter recited in claim 1.

Claims 2-5 and 7-11 variously depend from claim 1. Because the applied references, in any combination, fail to render the subject matter of independent claim 1 obvious, dependent claims 2-5 and 7-11 are patentable for at least the reasons that claim 1 is patentable, as well as for the additional features they recite

Accordingly, withdrawal of the rejections is respectfully requested.

III. New Claims

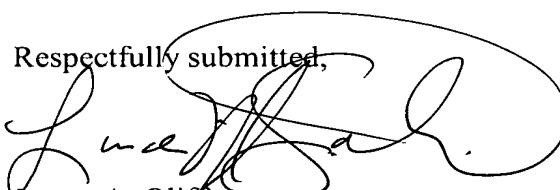
By this Amendment, claims 9-11 are added. Claims 9-11 depend from claim 1. Thus, claims 9-11 are allowable for the same reasons that claim 1 is allowable as well as for the additional features they recite.

Accordingly, allowance of the claims is respectfully requested.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

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